

## **REMARKS**

Claims 1-33, 37-39, and 41-59 remain in this application. No claims are currently amended. Claims 34-36 and 40 have been canceled. Claims 58 and 59 have been withdrawn.

The examiner has allowed claims 22-33, 37-39, and 51-57. The examiner states that claims 2-12, 17, and 43-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **I. ALLOWABLE SUBJECT MATTER**

The examiner has allowed claims 22-33, 37-39, and 51-57. The examiner states that claims 2-12, 17, and 43-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicants respectfully submit that base claims 1 and 41 are in condition for allowance as discussed below. Therefore, the applicants respectfully request that the examiner remove the objections to claims 2-12, 17, and 43-50.

### **II. CLAIM REJECTIONS – 35 U.S.C. §102**

The examiner rejected claims 1, 13-16, 18-21, 41, and 42 under 35 U.S.C. §102(e) as being anticipated by McIntosh (U.S. Patent Application Publication No. 2004/0182443).

The applicants respectfully submit that claims 1, 13-16, 18-21, 41, and 42 are not anticipated by McIntosh because McIntosh does not teach each of the limitations recited by the claims. McIntosh discloses a valve for controlling temperature in an overall water based heating/cooling system by water balancing in a particular zone within the system. However, McIntosh does not teach controlling the temperature of the fluid flowing through the valve with the valve itself. Instead, multiple valves simply balance the amount of hot/cold fluid in various parts of the heating/cooling system. The valves are placed throughout the complex water based heating/cooling system such as in a multi-story commercial building. The valves balance the distribution of hot/cold water throughout the system by adjusting the flow through the individual valves. For example, if a zone of the system is not getting enough fluid pressure, i.e. not enough hot/cold water, valves in other zones can be used to restrict fluid flow into the other zones, thereby increasing fluid flow into the target zone. Thus, the valves simply balance the flow of hot/cold fluid throughout the system. The valves do not control the temperature of the fluid flowing through the valves by controlling the pressure drop of the fluid across the valve. Thus,

McIntosh does not teach a flowbore fluid temperature control system where the valves themselves actually control the temperature of the fluid flowing through them as the claims recite. The applicants therefore respectfully submit that the rejection is unsupported by the art and request that the examiner withdraw the rejection with respect to the claims.

### **III. STATEMENT REGARDING CLAIMS**

The applicants have argued the allowability of the claims by addressing the comments by the examiner in this paper as well as previously during the prosecution of this application. By doing so, the applicants are in no way limiting their ability to argue additional points of novelty regarding the independent claims or dependent claims at a later date.

### **CONCLUSION**

The applicants respectfully request reconsideration of the non-allowed and that a timely Notice of Allowance be issued in this case. If the examiner feels that a telephone conference would expedite the resolution of this case, the examiner is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, the applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. There may also be other distinctions between the claims and the prior art that have yet to be raised, but that may be raised in the future.

Unless the applicants have specifically stated that an amendment was made to distinguish the prior art, it was the intent of the amendment to further clarify and better define the claimed invention and the amendment was not for the purpose of patentability. Further, although the applicants may have amended certain claims, the applicants have not abandoned their pursuit of obtaining the allowance of these claims as originally filed.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769 (ref. 1391-46000) of Conley Rose, P.C., Houston, Texas.

Respectfully submitted,  
CONLEY ROSE, P.C.

/Collin A. Rose/

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